

HOUSE BILL REPORT

SSB 6641

As Passed House - Amended:

March 3, 2004

Title: An act relating to oil spill management.

Brief Description: Reducing the risk of oil spills and spill damage.

Sponsors: By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators B. Sheldon, Oke, Spanel, Carlson, Fraser, Shin, Regala, Winsley, Kohl-Welles, Poulsen, Kline, Fairley, Jacobsen, Prentice, Haugen, Berkey, Brown, McAuliffe, Franklin, Rasmussen and Keiser).

Brief History:

Committee Activity:

Fisheries, Ecology & Parks: 2/24/04 [DPA];

Appropriations: 2/28/04 [DPA(FEP)].

Floor Activity:

Passed House - Amended: EnterDate, EnterVote.

Brief Summary of Substitute Bill (As Amended by House)

- Requires the Department of Ecology (Department) to adopt rules by June 30, 2006 for ship refueling and bunkering and transfers of oil between facilities and a tank vessel.
- Directs the Department to work with stakeholders to develop a report describing fueling practices and regulations for covered vessels and ships, and report recommendations and findings by December 15, 2004.
- Adds the requirement for any state agency conducting ship refueling or bunkering of more than 1 million gallons of oil during a calendar year on the waters of the state to develop facility oil spill prevention and contingency plans.

HOUSE COMMITTEE ON FISHERIES, ECOLOGY & PARKS

Majority Report: Do pass as amended. Signed by 9 members: Representatives Cooper, Chair; Upthegrove, Vice Chair; Sump, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Buck, Hatfield, O'Brien, Pearson and D. Simpson.

Staff: Jeff Olsen (786-7157).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Fisheries, Ecology & Parks. Signed by 26 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Sehlin, Ranking Minority Member; Pearson, Assistant Ranking Minority Member; Alexander, Anderson, Boldt, Buck, Chandler, Clements, Cody, Conway, Cox, Dunshee, Grant, Hunter, Kagi, Kenney, Kessler, Linville, McDonald, McIntire, Miloscia, Ruderman, Sump and Talcott.

Staff: Alicia Paatsch (786-7178).

Background:

The Legislature enacted oil spill prevention and response measures in 1991 to promote the safety of marine transportation and to protect state waters from oil spills. The Director of the Department of Ecology (Department) has the primary authority to oversee prevention, abatement, response, containment and cleanup efforts for oil spills in state waters. The oil spill program requires oil spill prevention plans, contingency response plans, and financial responsibility requirement for vessels and facilities that may discharge oil into navigable waters.

In addition to state law, federal laws prescribe regulations for the operation, equipping, personnel qualification, and manning of tank vessels, (46 U.S.C. Chapter 3703). The state adopted rules for regulating oil tankers that were challenged in court. In March 2000, the United States Supreme Court concluded that the federal savings clause does not authorize state rules regulating vessel operation, design, or manning. *United States v. Locke*, 529 U.S. 89 (2000) [Intertanko].

Owners and operators of onshore and offshore facilities must prepare and submit oil spill contingency and prevention plans. Oil spill prevention plans must establish compliance with federal law and certify compliance with a number of personnel and equipment requirements. Prevention plans are valid for five years and may be combined with contingency plans. Facilities may opt to submit contingency plans for tank vessels unloading at the facility.

Persons or facilities conducting ship refueling and bunkering, or lightering of petroleum products, are required to have containment and recovery equipment readily available according to standards adopted by the Department. In addition, any person or facility transferring oil between an onshore or offshore facility and a tank vessel are also required to have containment and recovery equipment readily available. The Department has rulemaking authority to adopt standards for the circumstances under which containment equipment should be deployed.

Summary of Amended Bill:

The Department must adopt rules for ship refueling and bunkering and transfers of oil between facilities and a tank vessel by June 30, 2006. The rules shall include standards requiring

deployment of containment equipment prior to the transfer of oil when determined to be safe and effective. The Department may require alternative measures, including the use of automatic shutoff devices and alarms, extra personnel, or containment equipment that is deployed quickly and effectively.

The Department must adopt standards for ship refueling and transfers of oil that are suitable to the environmental and operational conditions of the regulated facilities. In addition, the Department must consult with the United States Coast Guard to develop state standards that are compatible with federal requirements.

Legislative intent is established that the primary objective of the state oil spill program is to adopt a zero spills strategy and prevent the release of oil or hazardous substances from entering waters of the state. The Department is directed to establish a process for immediately notifying affected tribes of any oil spill. Shellfish beds are added to the list of natural resources to be considered for facility oil spill contingency planning purposes.

The Department of Ecology is directed to work with stakeholders to develop a report describing fueling practices and regulations for covered vessels and ships, and report recommendations and findings to the Legislature by December 15, 2004. The report must describe the current federal and state spill prevention and response requirements and recommendations for any new authorities necessary to establish a protective regulatory system for fueling ships.

Any state agency conducting ship refueling or bunkering of more than 1 million gallons of oil during a calendar year on the waters of the state must develop facility oil spill prevention and contingency plans. If specific funding is not provided to implement this requirement in the omnibus Transportation appropriations act, the requirement is null and void.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (Fisheries, Ecology & Parks) None.

Testimony For: (Appropriations) None.

Testimony Against: (Fisheries, Ecology & Parks) None.

Testimony Against: (Appropriations) None.

Persons Testifying: (Fisheries, Ecology & Parks) None.

Persons Testifying: (Appropriations) None.

Persons Signed In To Testify But Not Testifying: (Fisheries, Ecology & Parks) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.